

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

TATYANA ABDULLAYEVA, Individually on
Behalf of All Others Similarly Situated,

Plaintiff,

-against-

ATTENDING HOMECARE SERVICES LLC, d/b/a
ATTENDING HOME CARE,

Defendant.

Case No. 17-cv-05951(JBW)(SJB)

**DECLARATION OF
MICHAEL FUTERSAK IN FURTHER
SUPPORT OF DEFENDANT'S
MOTION TO DISMISS AND COMPEL
INDIVIDUAL ARBITRATION OR, IN
THE ALTERNATIVE, TO COMPEL
INDIVIDUAL ARBITRATION
AND STAY PROCEEDINGS
PENDING ARBITRATION**

I, Michael Futersak, declare under penalty of perjury that I have personal knowledge of the following facts and, if called to testify, could and would competently testify as follows:

1. I am the Administrator at Attending Homecare Services LLC d/b/a Attending Home Care ("Attending Home Care"). All of the information set forth herein is based on my personal and first-hand knowledge, as well as from my review of Attending Home Care's documents and data related to this matter, which is maintained in the regular course of business.

2. Attending Home Care, founded in 2004, is a home health care agency, serving elderly individuals with home care needs throughout the five boroughs.

3. Home Healthcare Workers of America, Local 1660 (the "Union"), based in Danbury, Connecticut, represents home healthcare workers throughout New York State, including the home health care aides working at Attending Home Care.

4. As stated in my Declaration dated November 6, 2017 and submitted to the Court with Attending Home Care's moving brief, in or around April and May 2016, the Union, on behalf of Attending Home Care's full-time and part-time home healthcare aides and personal care aides, negotiated a collective bargaining agreement (the "CBA") with Attending Home

Care, effective from May 1, 2016 through April 30, 2019.

5. Plaintiff completed an application for membership with the Union on or around April 13, 2016. See Plaintiff's Application for Membership with the Union, dated April 13, 2016, annexed hereto as **Exhibit A**.

6. As stated in my November 6, 2017 Declaration, Plaintiff was an employee of Attending Home Care at the time that the CBA and Amendment were executed. As a condition of her continued employment, Plaintiff, since April 13, 2016, and at all times during her employment with Attending Home Care, has been a member of the Union in good standing.

7. The New York State Home Care Registry lists Plaintiff as a current employee of Attending Home Care. See **Exhibit B**.

8. Plaintiff received a cell phone reimbursement in accordance with the provisions of the CBA through the last paycheck Attending Home Care has on file, dated November 3, 2017.

9. Plaintiff received a uniform reimbursement in accordance with the provisions of the CBA through the last paycheck Attending Home Care has on file, dated November 3, 2017.

10. Plaintiff paid dues to the Union through the last paycheck Attending Home Care has on file, dated November 3, 2017.

11. Plaintiff freely accepted the cell phone and uniform reimbursement in accordance with the CBA, just like every other member of the Union.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: February 9, 2018
Brooklyn, New York

A handwritten signature in black ink, appearing to read 'Michael Futersak', written over a horizontal line.

Michael Futersak